

MONTANA LEGISLATIVE HISTORY

Chapter 228 19 81

Bill H _____ S 245 Original bill & history C

H. Committee on Judiciary

Hearing Date(s) Mar 12 ☒ C

Mar 12 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Mar 12 ☒ C

S. Committee on Judiciary

Hearing Date(s) Feb 13 ☒ C

Feb 14 ☒ C

_____ ☐ C

_____ ☐ C

Feb 14 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

<u>SENATE</u> BILL NO.	<u>ENTERED</u> COMM.	<u>DATE</u> CONSIDERED	<u>OUT OF</u> COMM.	<u>DO PASS</u> <u>DATE</u>	<u>DO NOT</u> <u>PASS</u> <u>DATE</u>	<u>DO PASS</u> AS AMEND. <u>DATE</u>	<u>BE CON-</u> <u>CURRED IN</u> <u>DATE</u>	<u>BE CONC. IN</u> AS AMENDED <u>DATE</u>	<u>BE NOT CON-</u> <u>CURRED IN</u> <u>DATE</u>
SB 182	1/20/81	2/03/81	2/06/81			2/06/81			
SB 182	2/18/81	held to call							
SB 196	1/21/81	transferred to Natural Resources							
SB 201	1/21/81	1/29/81	1/30/81		1/30/81				
SB 203	1/21/81	1/29/81	1/30/81		1/30/81				
SB 209	1/21/81	2/13/81	2/13/81		2/13/81				
SB 214	1/21/81	tabled							
SB 216	1/29/81	2/10/81	2/11/81	2/11/81					
SB 219	1/22/81	2/10/81	2/20/81			2/20/81			
SB 222	1/22/81	2/06/81	2/07/81			2/07/81			
SB 224	1/22/81	2/09/81	tabled	2/18/81					
SB 227	1/22/81	2/09/81	2/11/81	Tie vote -- taken out on Senate floor.					
SB 238	1/23/81	2/05/81	2/07/81			2/07/81			
SB 238	2/11/81	back for correction	on - sent back out 2/19/81						
SB 240	1/23/81	2/05/81	2/20/81			2/20/81			
SB 245	1/23/81	2/13/81	2/14/81			2/14/81			

would encourage the birth mother to seek counseling before relinquishing her child. He endorsed the bill with its amendments.

Betty Bay, Program Manager for Adoption for the S.R.S., supported the bill.

Kenneth Gjerde, representing the Lutheran Social Services in Great Falls, spoke in support of the bill and spoke of the importance of the medical record established for a child, including family illnesses, inherited traits, etc.

CONSIDERATION OF SENATE BILL 245:

GENERALLY REVISING THE LAWS RELATING TO HEALTH AND THE FAMILY.

The bill was introduced by Senator Mazurek at the request of the Department of Health and Environmental Sciences. He took the committee through the changes being sought in the bill.

John Wilson, Chief of the Bureau of Records and Statistics for the Department of Health and Environmental Sciences, presented written testimony (marked Exhibit C and attached to these minutes), and showed the committee the poor condition of the current records. He said that the added revenue from the increase in the fee for obtaining a certified copy of a birth certificate could be used in keeping more usable, accurate records.

In closing, Senator Mazurek pointed out that the Department of Health had asked that the two dollar fee be increased to three dollars; but the Governor had changed the request to five dollars. He felt this issue could be negotiated.

CONSIDERATION OF SENATE BILL 209:

PROVIDING FOR THE PAYMENT OF COURT JUDGMENTS IN PERIODIC INSTALLMENTS.

Senator Mazurek introduced the bill at the request of a member of the National Conference of Commissioners of Uniform State Laws. He presented Exhibit D, attached to these minutes, as written testimony, and stated that the purpose is to provide for the payment of large damage awards over the course of a person's life rather than in a large single settlement. The drafter of the bill did not appear for this meeting.

Mike Meloy, opposing the bill on behalf of the Montana Trial Lawyers Association, stated that the bill is confusing and complicated, and uses a Uniform Act which was designed to

ROLL CALL

JUDICIARY COMMITTEE

471 LEGISLATIVE SESSION - - 1981

Date 2/13/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: John Wilson DATE: 2-13-81

ADDRESS: Dept. of Health & Env. Sciences

PHONE: 449-2614

REPRESENTING WHOM? Dept. of Health & Env. Sciences

APPEARING ON WHICH PROPOSAL: SB 245

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Written testimony submitted.

NAME: Richard L. Crankshaw DATE: 2/13

ADDRESS: 112 Fairway Dr., Helena

PHONE: 449-2645

REPRESENTING WHOM? Preventive Health Services Bureau, SDHHS

APPEARING ON WHICH PROPOSAL: ~~HP~~ SB 245

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Available to answer any questions that might arise regarding
preventive services testing for syphilis or rubella

NAME: John Anderson Mr. DATE: 2-15-81

ADDRESS: Helen m. 7 4655 Ivy Ave + 27.

PHONE: 492-0663

REPRESENTING WHOM? *Ad. 10-18-1941*

LEARNING ON WHICH PROGRAM

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DISPOSITION OF SENATE BILL 112:

Senator Tveit moved to amend the bill on page 1, line 19, following "." by inserting "At any time after receiving a complaint, the commission may notify the parties that it declines further jurisdiction and thereupon the complainant may petition the district court". This motion passed unanimously.

Senator Anderson asked if Senator Tveit would change "may" to "shall" in line 14. Putting it into the form of a motion, it carried five to four with one abstention on a roll call vote.

DISPOSITION OF SENATE BILL 29:

Senator S. Brown moved to amend page 2, line 4, following "residential", by inserting "or commercial"; and on page 3, line 7, following "residential", by inserting "or commercial". These amendments passed unanimously. It was then specified that it was the intent of the author of the bill and the intent of the committee that this language apply to all established farm businesses. Senator S. Brown moved that the bill DO PASS AS AMENDED, and the motion carried unanimously.

DISPOSITION OF SENATE BILL 245:

Senator Mazurek moved to amend the bill on page 5, line 20, by striking "\$5" and inserting "\$3". His motion passed unanimously. Senator S. Brown moved that the bill DO PASS AS AMENDED, and the motion carried unanimously.

DISPOSITION OF SENATE BILL 267:

Senator Mazurek moved to amend the bill as shown on the attached Committee Report. The amendments passed unanimously. He then moved that the bill DO PASS AS AMENDED, and the motion carried with Senator Olson objecting.



ROLL CALL

JUDICIARY COMM. TTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/14/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

.....February 14..... 19 31.....

MR. PRESIDENT.....

We, your committee on JUDICIARY.....

having had under consideration SENATE Bill No. 245.....

Respectfully report as follows: That.....SENATE Bill No. 245.....
be amended as follows:

1. Page 5, line 20.
Following: "\$2"
Strike: "\$5"
Insert: "\$3"

And, as so amended,

DO PASS

90

JUDICIARY COMMITTEE

47th Legislature
SENATE BILLS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
245	Generally revising the laws relating to health and the family.	2/21/81	Mazurek	3/12/81	Do Pass 3/17/81	3/17/81
265	Amending 72-15-301 to increase the compensation for estate public administrations.	2/21/81	Hager	3/13/81	Do Pass 3/13/81	3/13/81
267	Revising adoption, relinquishment and placement of children for adoption laws.	2/21/81	Mazurek	3/12/81	Do Pass 3/13/81	3/13/81
268	Taxing the costs of impaneling a jury against parties who fail to inform the court of a settlement.	2/19/81	Graham	3/18/81	Do Pass 3/18/81	3/18/81
286	Generally revising the laws relating to the prisoner furlough program.	2/13/81	Van Valkenburg	3/18/81	Do Pass as Amended 3/24/81	3/24/81
302	Amending 7-4-2706 to allow county attorneys to complete legal matters remaining from private practice.	2/13/81	McCallum	3/18/81	Do Pass 3/18/81	3/18/81

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
March 12, 1981

The meeting of the House Judiciary Committee was called to order by Chairman Kerry Keyser at 8:00 a.m. in Room 437 of the Capitol. Rep. Conn and Rep. Anderson were absent. Rep. Huennekens and Rep. Teague were both excused. Jim Lear, Legislative Council, was present.

SENATE BILL 245 SENATOR MAZUREK, sponsor, stated this bill was requested by the Department of Health and Environmental Sciences. The purpose is to generally revise the laws relating to health and the family. Under the present law there is a requirement that a physical examination be performed in addition to the serological test.

Section 3 relates to the confidentiality of adoption proceedings. It allows an adopted child at 18 to have access to his birth certificate. Sections 3 and 9 make the law consistent. Section 4 is a grammar change. Line 9 on page 4, "dissolution of marriage" makes the terms consistent.

Section 6 of the bill changes the fee for a certified copy of a birth certificate to \$3.00. One dollar of the fee will go to the earmarked revenue fund. Sections 7 and 8 change the date on which the marriage and dissolution records must be submitted by the 10th of the month. Failure to comply would be a misdemeanor.

JOHN WILSON, Department of Health and Environmental Sciences, supported the bill. EXHIBIT 1. WILSON demonstrated how the books were kept many years ago in big complex manuals. An updated, easier-to-locate materials manual is now in use.

There were no further proponents.

There were no opponents.

The Senator closed the bill.

REP. MATSKO stated all the dates in the bill are changed to the 10th except in Section 9, which is left as the 16th. WILSON stated that is not a problem. Those records come in and are cycled on a different schedule.

REP. HANNAH asked why it is not appropriate for someone who is adopted to have free access to the records. SENATOR MAZUREK replied it would not be appropriate. There needs to be some guidelines and a workable system. Medical history needs to be provided.

Judiciary Committee
March 12, 1981
Page 7

REP. EUDAILY moved to strike "PURPOSELY AND" from page 2, line 5. The motion carried unanimously.

REP. BROWN moved do pass as amended. The motion carried.

SENATE BILL 222 REP. HANNAH moved do pass.

REP. CURTISS moved following "costs" to insert "and attorney's fees" on line 7. The motion carried.

REP. CURTISS moved following "awarded" on line 9 to strike "if" and insert "unless". The motion carried.

REP. EUDAILY moved on page 2, line 15 following "of" to strike "costs" and to insert "attorney's fees". The motion carried.

REP. BENNETT moved to strike ":" after "if" on page 1, line 24 and on page 1, line 25 to strike "(a)". The motion carried.

REP. EUDAILY asked about the fiscal note for the bill. REP. IVERSON stated when the fiscal note was first drawn up it included torts, which according to testimony, involved about 5-10% of the money. REP. EUDAILY thought that could make a difference in the budgets. REP. IVERSON felt this bill would not survive on the present fiscal note.

REP. CURTISS moved to hold the bill until another fiscal note is made. The motion carried.

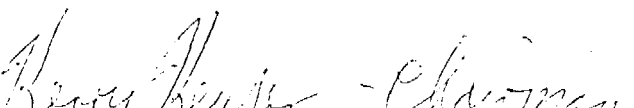
SENATE BILL 245 REP. BROWN moved do pass.

REP. BENNETT moved to delete section 10. He felt the language conflicts with abortions. Reporting abortions is of no benefit. There is no need for these reports to be made to the state. REP. MATSKO stated that was current law. REP. BENNETT withdrew his motion.

REP. BROWN moved to delete Section 10.

REP. BROWN moved to hold action on the bill. The motion carried.

The meeting adjourned at 10:50 a.m.


KERRY KEYSER, CHAIRMAN

mr

Testimony in Support of Senate Bill 245, 1981 Montana Legislative Session

Mr. Chairman and Members of the Committee:

My name is John C. Wilson. I am Chief of the Bureau of Records and Statistics, and am appearing on behalf of the Department of Health and Environmental Sciences regarding sections 3 through 12 of the bill.

Section 3 concerns the release of data from the Department's files for persons who have been adopted. The last session of the legislature amended 50-15-206 M.C.A. to require a court order for an adopted person born out-of-wedlock before he or she could get information from the sealed file (that is the file created pursuant to adoption, which contains the original birth certificate, the certificate of adoption form, and related documents). Section 50-15-304 provides in (2) (c):

"The Department shall seal original birth records and open them only on demand of the adoptive person if of legal age or on order of a court."

Section 50-15-206 was amended to read:

"Disclosure of illegitimacy of birth or information from which illegitimacy can be ascertained may be made only: (a) upon an order of a court to determine personal or property rights. An adoptive person of legal age may apply to the court for such an order."

Since there seemed to us to be a contradiction between the two sections as to whether or not the court order was required before a sealed file could be opened, we contacted our legal division which subsequently contacted the Montana Attorney General for an opinion in this matter. The essence

of his reply, dated January 8, 1980 is:

"You have requested my opinion on the following question:

Is a court order required before an adopted person may be allowed access to his or her sealed original birth records?"

His opinion stated:

"Legitimately born adopted persons of legal age may have their sealed original birth records opened on demand pursuant to section 50-15-304 (2) (c), M.C.A. Illegitimately born adopted persons may apply to the court for disclosure of their sealed original birth records pursuant to section 50-15-206 (1) (a), M.C.A."

Since it is not possible to ascertain when a person presents himself in our office with a request to open his sealed file whether he was born in- or out-of-wedlock members of our staff have to excuse themselves, open the sealed file, and determine whether or not the person is legitimate. If the person was born in-wedlock, we may open the sealed file and provide him with certified copies of the documents ~~contained therein~~. If the person was born out-of-wedlock, we have to advise him that, due to circumstances surrounding his birth, we are not able to provide a certified copy unless we have a court order. This situation is awkward, both for our staff and for the registrants. We believe that out of fairness, all persons ought to be treated the same, whether they were born in- or out-of-wedlock. Senator Mazurek suggests that all persons desiring to have their sealed files opened be required to have a court order.

Section 4 simply adds two new definitions to the definitions sections of the Montana Vital Statistics Law. The new definitions are "dissolution of marriage", formerly called a divorce, and "invalid marriage", formerly called an annulment.

Section 5 replaces the word divorce with "dissolution of marriage" or "invalid marriage", to be consistent with other Montana statutes.

Section 6 has to do with the fees charged for certified copies of birth and death certificates. It brings Montana fees for certified copies more into line with those charged by other states. Inflation has affected fees for certified copies nationwide. One dollar of the fee is to be deposited in an earmarked revenue fund to be used by the Department for the maintenance of indexes to, and costs for the preservation of vital records.

Sections 7 and 8 simply change the date for marriages, divorces, annulments, and annulment of adoption to be due in our office on the 10th of the month instead of the 16th. Our processing is monthly and the cutoff date for the receipt of births, deaths, and fetal deaths is the 10th of the month. Over the years, Clerks of District Courts have cooperated with us in having their reports by the 10th also. We don't know why the 16th was listed as the cutoff date in the first place, the 10th of the month makes the production of vital statistics more timely, so that all kinds of records can be processed on the same schedule.

Section 9 is related to section 3 regarding the opening of sealed files ^{for} ~~in~~ persons who have been adopted. The change here is to remove permission to open a sealed file on demand of the adopted person if of legal age.

Section 10 simply provides that failure to report legally induced abortions to our Bureau is a misdemeanor.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

SENATE

BILL 245

Date 3/12/81

SPONSOR Mazurek

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
March 17, 1981

The executive session of the House Judiciary Committee was called to order at 9:00 a.m. in Room 437 of the Capitol by Chairman Kerry Keyser. All members were present except Rep. Hannah, Rep. Daily, and Rep. Huennekens, who were absent. Jim Lear, Legislative Council, was present.

SENATE BILL 245 REP. BENNETT moved do pass.

REP. BENNETT moved to repeal section 10 from the law. He felt the law was archaic and makes no sense. It is none of the state's business to know who had an abortion.

REP. CURTISS opposed the motion and felt the section should be left as is. Page 10, lines 16-17 states that violation of the section is a misdemeanor. REP. HANNAH agreed.

REP. MATSKO stated section 6, making it a misdemeanor, makes it objective and it is contrary to repeal section 10. REP. BENNETT responded that leaving it in the law would be contrary to current practice since abortions can be obtained legally. REP. YARDLEY stated there must be some relationship to this and the abortion statute itself.

REP. BENNETT wondered about the possibility instead of repealing the section to leave in the language from lines 17-23 and replace the "," with a "." after "realize". On page 10, line 8, after "abortion" striking the rest of line 23 to line 10 on page 8. This would require the reporting of the abortions yet it would be confidential information. REP. HANNAH stated HJR15 was in the same lines as this amendment. Both the House and the Senate showed by passage of HJR15 stricter controls are necessary. This is existing law and it is consistent. REP. HANNAH opposed the motion. The sponsor of the bill made no attempt to take this section out of the law. It would be a radical change.

The motion to repeal section 10 in its entirety failed with BENNETT, KEEDY, ABRAMS, and SEIFERT voting for the motion. REP. CONN abstained.

REP. HANNAH felt that page 8, lines 9-10 was a radical change from current practice. When a person reaches legal age he could find out who is parents are. Page 8 stops that ability and puts it in the hands of the court to decide. REP. HANNAH objected to that.

REP. YARDLEY stated section 3 requires a court order now. The sponsor intended to go the other direction with the bill and ended up going this way.

The motion of do pass carried with MCLANE, ABRAMS, ANDERSON and HANNAH voting no. REP. YARDLEY was assigned to carry the bill.